

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

-----X

DAVID ATLEE PHILLIPS,

PLAINTIFF,

VS.

CIVIL ACTION NO. 81-1407

DONALD FREED, ET AL.,

JUDGE RICHEY

DEFENDANTS.

-----X

DAVID ATLEE PHILLIPS,

PLAINTIFF,

VS.

CIVIL ACTION NO. 81-2578

LAWRENCE HILL & CO.

JUDGE JACKSON

PUBLISHERS, INC., ET AL.,

DEFENDANTS.

-----X

WASHINGTON, D. C.

WEDNESDAY, MARCH 30, 1983

DEPOSITION OF

DAVID ATLEE PHILLIPS

THE PLAINTIFF, WAS RECALLED FOR FURTHER EXAMINATION BY COUNSEL
FOR THE DEFENDANTS, PURSUANT TO RECESS, TAKEN AT THE LAW OFFICES

GAGLIARDI REPORTING COMPANY
1348 Chetworth Court
Alexandria, VA 22314
836-8223

1 OF BIERBOWER & BIERBOWER, 1875 EYE STREET, N. W., SUITE 1275,
2 WASHINGTON, D. C., BEGINNING AT 12:45 P.M., BEFORE JUDITH R.
3 GAGLIARDI, A NOTARY PUBLIC IN AND FOR THE DISTRICT OF COLUMBIA,
4 WHEN WERE PRESENT ON BEHALF OF THE RESPECTIVE PARTIES:

5 FOR THE PLAINTIFF:

6 MARK BIERBOWER, ESQUIRE
7 BIERBOWER & BIERBOWER
8 1875 EYE STREET, N. W.
9 SUITE 1275
10 WASHINGTON, D. C. 20006

11 FOR THE DEFENDANTS:

12 MELVIN L. WULF, ESQUIRE
13 BELDOCK LEVINE & HOFFMAN
14 565 FIFTH AVENUE
15 NEW YORK, N. Y. 10017

16 ALSO PRESENT:

17 LEE S. STRICKLAND, ESQUIRE
18 SPECIAL ASSISTANT U. S. ATTORNEY
19 U. S. COURTHOUSE
20 THIRD & CONSTITUTION AVENUE, N. W.
21 WASHINGTON, D. C. 20001

22 LAUNIE ZIEBELL, ESQUIRE
ASSOCIATE GENERAL COUNSEL
CHIEF, LITIGATION DIVISION
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

PAUL KITTRIDGE, REPRESENTING
DIRECTOR FOR OPERATIONS, CIA

LOUIS WOLF, JOURNALIST

1 Q WHAT DID THAT CONSIST OF ACTUALLY?

2 A IT CONSISTED PRIMARILY OF KNOWING WHAT WAS GOING
3 ON IN AND AROUND THE CUBAN EMBASSY AND CONTINUING THE OLD JOB
4 IN A SENSE IN ATTEMPTING TO THWART CUBAN ACTIVITIES, NOT
5 JUST PROPAGANDA ACTIVITIES, BUT ESPIONAGE ACTIVITIES AND SO
6 FORTH IN MEXICO AND IN THE REST OF LATIN AMERICA.

7 Q DO YOU REMEMBER, WAS THERE A SPECIFIC DAY OR DATE
8 THAT YOU ACTUALLY WENT OVER FROM ONE ASSIGNMENT TO THE OTHER?

9 A THERE WAS NOT A SPECIFIC DAY OR DATE BECAUSE I KIND
10 OF TAPERED OFF IN ONE JOB WHILE I WAS GOING INTO THE OTHER,
11 BUT IT WAS ROUGHLY SEPTEMBER OF 1963.

12 Q AND YOU WERE IN CHARGE OF SURVEILLANCE OF THE CUBAN
13 EMBASSY IN MEXICO, FOR EXAMPLE?

14 A YES.

15 Q WHAT WAS THE NATURE OF THAT SURVEILLANCE? WAS IT
16 PHYSICAL SURVEILLANCE?

17 MR. STRICKLAND: OBJECTION.

18 BY MR. WULF:

19 Q WAS IT PHOTOGRAPHIC SURVEILLANCE?

20 MR. STRICKLAND: OBJECTION.

21 BY MR. WULF:

22 Q WAS IT ELECTRONIC SURVEILLANCE?

1 MR. STRICKLAND: OBJECTION.

2 BY MR. WULF:

3 Q WAS IT TELECOMMUNICATIONS SURVEILLANCE?

4 MR. STRICKLAND: OBJECTION.

5 BY MR. WULF:

6 Q WAS IT SIGENT SURVEILLANCE?

7 MR. STRICKLAND: OBJECTION.

8 THE WITNESS: THERE IS A 1910 LAW I COULD GO TO
9 JAIL UNDER FOR ANSWERING THAT.

10 BY MR. WULF:

11 Q WELL, NOBODY TOLD YOU TO BRING A LAWSUIT, THEN I
12 WOULDN'T BE ABLE TO ASK YOU THE QUESTIONS. SINCE YOU BROUGHT
13 A LAWSUIT, I CAN ASK YOU THE QUESTIONS. IT'S NOT MY FAULT
14 YOU ARE HAVING TO GO THROUGH ALL THIS. I DIDN'T BRING IT ON
15 YOU. YOUR OWN SUFFERANCE.

16 SO THAT IS WHAT YOU DID FOR TWO YEARS, YOU KEPT
17 AN EYE OUT ON CUBAN ACTIVITIES IN MEXICO, IS THAT HOW YOU
18 PASSED YOUR TIME?

19 A YES, SIR.

20 Q DID YOU SEE ANY EVIDENCE OF LEE HARVEY OSWALD
21 ENTERING THE CUBAN EMBASSY ANY TIME IN 1963?

22 A YES, I DID.

1 Q WHAT EVIDENCE DID YOU SEE THAT HE ENTERED THE CUBAN
2 EMBASSY?

3 A EVIDENCE IN THE FORM OF REPORTS FROM A CUBAN EM-
4 BASSY SOURCE THAT HE WAS INSIDE.

5 Q YOU HAD A SPY IN THE CUBAN EMBASSY, DID YOU?
6 MR. STRICKLAND: OBJECTION.

7 BY MR. WULF:

8 Q YOU HAD A SOURCE IN THE CUBAN EMBASSY, DID YOU?
9 MR. STRICKLAND: OBJECTION.

10 MR. WULF: HE JUST SAID HE HAD A SOURCE IN THE
11 CUBAN EMBASSY SO HE'S JUST BLOWN IT.

12 MR. ZIEBELL: DO YOU WANT TO READ THE QUESTION AND
13 ANSWER?

14 MR. WULF: NO, NO, JUST LEAVE IT THE WAY IT IS.
15 ON THE RECORD HE SAID HE GOT IT FROM A SOURCE IN THE CUBAN
16 EMBASSY. WHO WAS THAT SOURCE?

17 MR. STRICKLAND: IF THE REPORTER WOULDN'T MIND,
18 WOULD SHE PLEASE READ BACK THE QUESTION AND ANSWER?

19 (THE RECORD WAS READ BY THE REPORTER.)

20 MR. BIERBOWER: I WOULD LIKE TO GET ON THE RECORD
21 THE DISTINCTION THAT MR. PHILLIPS HAS JUST DRAWN.

22 MR. WULF: YOU CAN'T TESTIFY. I AM SORRY. THERE

1 IS NO QUESTION BEFORE HIM AND IF YOU WANT TO MAKE A DISTINCTION,
2 YOU CAN MAKE IT SOME OTHER TIME BECAUSE YOU CAN'T TESTIFY.
3 HE IS TESTIFYING. I DIDN'T ASK HIM ANY QUESTION ABOUT
4 DRAWING DISTINCTIONS, SORRY.

5 MR. BIERBOWER: I THOUGHT YOU JUST WANTED THE
6 TRUTH IN THE MATTER.

7 MR. WULF: I ASSUME THAT THIS IS THE TRUTH IN THE
8 MATTER, THAT HE GOT IT FROM A CUBAN EMBASSY SOURCE.

9 MR. STRICKLAND: SINCE YOU QUESTIONED THE OBJEC-
10 TION OF THE UNITED STATES TO MAKE THE LAST OBJECTION --

11 MR. WULF: NO, I DON'T. I ACCEPT IT.

12 MR. STRICKLAND: I CAN HAVE THE REPORTER READ IT
13 BACK. I WOULD HAVE THE RECORD SHOW THAT MR. PHILLIPS, WHEN
14 THE SERIES OF QUESTIONS WERE READ BACK, THAT MR. PHILLIPS'
15 COMMENT THAT "A SOURCE IN THE CUBAN EMBASSY," HE EXPLAINED
16 THAT TO MEAN --

17 MR. WULF: WAIT A SECOND, MR. STRICKLAND. HE
18 DIDN'T SAY ANYTHING LIKE THAT.

19 MR. STRICKLAND: WELL, LET HIM EXPLAIN IT.

20 THE WITNESS: MAY I SAY IT FOR THE RECORD?

21 MR. WULF: NO, YOU CAN'T SAY IT. YOU CAN ONLY
22 ANSWER QUESTIONS WHICH I ASK YOU. I DON'T WANT THIS CLARIFIED.

1 I LIKE IT THE WAY IT IS. HOW'S THAT?

2 MR. STRICKLAND: WELL, OF COURSE, BUT YOU CALLED
3 INTO QUESTION AN OBJECTION MADE BY THE GOVERNMENT --

4 MR. BIERBOWER: I THINK WE CAN MOVE ON. ANYONE
5 READING IN THE CONTEXT OF THE DEPOSITION WILL GET THE PICTURE.

6 BY MR. WULF:

7 Q DID YOU SEE ANY PHOTOGRAPHIC EVIDENCE OF OSWALD'S
8 ENTERING THE CUBAN EMBASSY?

9 MR. STRICKLAND: OBJECTION.

10 BY MR. WULF:

11 Q DID YOU HEAR ANY ELECTRONIC EVIDENCE OR EVIDENCE
12 SECURED ELECTRONICALLY ABOUT OSWALD VISITING THE CUBAN
13 EMBASSY?

14 MR. STRICKLAND: OBJECTION.

15 BY MR. WULF:

16 Q DID YOU HAVE ANY AUTHORITY OVER SURVEILLANCE OF
17 THE EMBASSY OF THE SOVIET UNION IN MEXICO CITY?

18 MR. STRICKLAND: IS THE QUESTION DID HE HAVE AUTHOR-
19 ITY, SUCH AS WAS IT WITHIN HIS DUTIES?

20 MR. WULF: YES.

21 THE WITNESS: THE ANSWER IS NO.

22 BY MR. WULF:

1 Q WERE YOUR DUTIES IN 1963-1965 DEVOTED EXCLUSIVELY TO
2 MAINTAINING CONTACT WITH OR COLLECTING INFORMATION ABOUT AC-
3 TIVITIES OF THE CUBAN GOVERNMENT IN MEXICO?

4 A NO.

5 Q WHAT OTHER DUTIES DID YOU HAVE THAT PERIOD OF TIME?

6 A THE DUTIES THAT EMBASSY OFFICERS HAVE WHICH COME
7 IN A VARIETY OF WAYS. FOR INSTANCE, DURING THE INAUGURATION
8 OF A PRESIDENT CONGRESSMAN HALE BOGGS CAME TO MEXICO AND I
9 HAD TO TAKE CARE OF HIM FOR TWO DAYS.

10 Q I AM NOT INTERESTED IN THAT AS A PROTOCOL OR YOUR
11 SOCIAL LIFE, I AM TALKING ABOUT YOUR SUBSTANTIVE ACTIVITIES
12 AS AN EMPLOYEE OF THE CIA. IF WE CAN CONFINE YOUR ANSWERS
13 TO THAT I WOULD BE GRATEFUL INDEED.

14 A ALL RIGHT. THE ANSWER TO THAT QUESTION, NO, I
15 HAD NO OTHER DUTY.

16 Q SO YOUR SUBSTANTIVE DUTIES WERE DEVOTED EXCLUSIVELY
17 TOWARD DIRECTING INFORMATION, KEEPING AN EYE ON ACTIVITIES OF
18 THE CUBAN GOVERNMENT IN MEXICO?

19 A THAT IS RIGHT.

20 Q ONLY IN MEXICO OR DID YOUR INTERESTS GO OUTSIDE
21 THE BOUNDARIES OF MEXICO?

22 A MY INTERESTS WENT OUTSIDE THE BOUNDARIES, MY

1 THAT THAT HAPPENED.

2 Q WHERE WERE YOU PHYSICALLY, ACTUALLY?

3 A AT THAT TIME I WAS IN WASHINGTON.

4 Q YOU KNEW IT WAS COMING?

5 A ABSOLUTELY NOT.

6 Q DIDN'T THEY TELL YOU?

7 A NO. I LEARNED IT IN THE WASHINGTON POST ONE SUNDAY
8 MORNING.

9 Q WHAT KIND OF BRIEFING DID THEY GIVE YOU UP THERE IF
10 THEY DIDN'T EVEN TELL YOU YOU WERE GOING TO HAVE 22,000 AMERICAN
11 TROOPS AT YOUR STATION? PRETTY POOR PREPARATION, I WOULD
12 THINK.

13 A I WAS UNDER THE IMPRESSION THAT I WAS BEING ASSIGNED
14 TO A VERY DULL TOUR AND THAT WAS THE KIND OF BRIEFING I GOT.

15 Q WHO BRIEFED YOU?

16 A DESMOND FITZGERALD WAS THE PRIMARY BRIEFER.

17 Q HE WASN'T DDO, WAS HE, OR WAS HE?

18 A HE WAS THE CHIEF OF LATIN AMERICAN OPERATIONS AT
19 THE TIME.

20 Q THE JOB THAT YOU LATER GOT?

21 A YES, SIR.

22 Q AND HE DIDN'T WHISPER A WORD ABOUT OUR TROOPS GOING

1 DOWN THERE?

2 A I CAN ASSURE YOU IT WAS A SHOCK TO MR. FITZGERALD
3 WHEN HE FOUND OUT THAT THAT MANY TROOPS WERE GOING DOWN.

4 Q HE DIDN'T KNOW EITHER?

5 A NO, SIR.

6 Q NOBODY IN THE CIA KNEW ABOUT IT?

7 A NO, SIR.

8 Q WAS THAT STRICT DEPARTMENT OF DEFENSE ACTION?

9 A NO. IT WAS STRICT WHAT WE CALL DEPARTMENTATION
10 AT THE WHITE HOUSE BECAUSE LYNDON JOHNSON'S DECISION WAS
11 UNEXPECTED TO OTHER ELEMENTS OF THE U. S. GOVERNMENT.

12 Q SO WHAT WERE YOU DOING IN THE DOMINICAN REPUBLIC
13 FOR TWO YEARS? WHAT WERE YOUR DUTIES, WHAT WERE YOUR RESPON-
14 SIBILITIES AND ACTIVITIES?

15 A THEY WERE THE NORMAL ACTIVITIES AND RESPONSIBILITIES
16 OF A CHIEF OF STATION OVERSEAS, THAT IS, I SERVED AS THE
17 SENIOR INTELLIGENCE ADVISER TO THE AMBASSADOR.

18 Q WHO DID WE INSTALL AS HEAD OF THE GOVERNMENT IN
19 THE DOMINICAN REPUBLIC WITH OUR 22,000 SOLDIERS?

20 A WE DID NOT INSTALL ANYONE. IF I UNDERSTAND THAT
21 YOU MEAN THE U. S. GOVERNMENT --

22 Q MY QUESTION IS TENDENTIOUS.

1 Q AND YOU DID IT SUCCESSFULLY, RIGHT? YOU PULLED OFF
2 A MILITARY COUP, DIDN'T YOU?

3 A NO, SIR.

4 Q YOU DIDN'T?

5 A NO, SIR.

6 Q YOU MEAN THE CHILEANS PULLED IT OFF THEMSELVES
7 WITHOUT YOUR HELP? WHAT DO YOU MEAN?

8 A ARE WE REFERRING TO 1970?

9 Q I AM SORRY. YES. EVENTUALLY YOU DID?

10 A NO, SIR.

11 Q WHO WERE YOU IN TOUCH WITH AT THE SANTIAGO
12 CIA STATION?

13 A A SMALL NUMBER OF OFFICERS WHO WERE A PART OF THE
14 TRACK II EFFORT.

15 Q DO YOU KNOW GORDON MC LENDON?

16 A YES, I DO.

17 Q WHO IS HE?

18 A GORDON MC LENDON IS A VASTLY RICH TEXAN.

19 Q WHAT HAS BEEN YOUR CONNECTION WITH HIM?

20 A DO YOU WANT THE ENTIRE HISTORY?

21 Q NOT EVERY JIT AND TOTTLE, JUST IS HE A FRIEND OF
22 YOURS OR DOES HE WORK FOR YOU?

1 A I FIRST MET HIM IN 1939 WHEN I WAS A STUDENT AT
2 WILLIAM AND MARY COLLEGE, CAME TO WASHINGTON, D. C. TO
3 ATTEND A WEEKEND PROM AND HE WAS PRESENT.

4 Q WELL, I THINK YOU TOLD ME MORE THAN I ACTUALLY
5 WANTED TO KNOW. DID HE EVER DO ANY FAVORS FOR THE CIA,
6 MR. MC LENDON?

7 A NOT TO MY KNOWLEDGE.

8 Q HAVE YOU KNOWN HIM ACROSS ALL THESE YEARS?

9 A NO, SIR, AFTER WE MET AT THIS COLLEGE PROM AND
10 HE OFFERED ME A RIDE BACK TO WILLIAM AND MARY AND I GOT IN HIS
11 CAR AND SAID I WOULD BE DELIGHTED AND WHEN I WOKE UP I WAS AT
12 YALE, I NEXT MET GORDON MC LENDON IN ABOUT 1977 WHEN HE
13 BECAME A MEMBER OF THE ASSOCIATION OF FORMER INTELLIGENCE
14 OFFICERS AND CAME TO ATTEND A CONVENTION. WE HAD A LOT
15 TO TALK ABOUT SINCE WE GREW UP IN THE SAME PART OF TEXAS AND
16 HE IS KIND OF A LEGENDARY CHARACTER IN TEXAS.

17 Q WHAT QUALIFIED HIM TO JOIN AFIO?

18 A BECAUSE HE SERVED DURING WORLD WAR II IN NAVAL
19 INTELLIGENCE, HE WAS A JAPANESE LANGUAGE EXPERT.

20 Q YOU ARE TELLING ME YOU DIDN'T SEE HIM BETWEEN 1939
21 AND 1977?

22 A NO, SIR.

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FOR THE DISTRICT OF COLUMBIA

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2 PLAINTIFF,

3 VS.

4 DONALD FREED, ET AL.,

5 DEFENDANTS.

CIVIL ACTION NO. 81-1407

JUDGE RICHEY

6
7 DAVID ATLEE PHILLIPS,

8 PLAINTIFF,

9 VS.

10 LAWRENCE HILL & CO.
11 PUBLISHERS, INC., ET AL.,

12 DEFENDANTS.

CIVIL ACTION NO. 81-2578

JUDGE JACKSON

13 WASHINGTON, D. C.

14 THURSDAY, MARCH 31, 1983

15 DEPOSITION OF

16 DAVID ATLEE PHILLIPS

17 THE PLAINTIFF, WAS RECALLED FOR FURTHER EXAMINATION BY COUNSEL
18 FOR THE DEFENDANTS, PURSUANT TO RECESS, TAKEN AT THE LAW
19 OFFICES OF BIERBOWER & BIERBOWER, 1875 EYE STREET, N. W.,
20

21
22 GAGLIARDI REPORTING COMPANY
1348 Chetworth Court
Alexandria, VA 22314
836-8223

1 SUITE 1275, WASHINGTON, D. C., BEGINNING AT 9:30 A.M.,
2 BEFORE JUDITH R. GAGLIARDI, A NOTARY PUBLIC IN AND FOR THE
3 DISTRICT OF COLUMBIA, WHEN WERE PRESENT ON BEHALF OF THE
4 RESPECTIVE PARTIES:

5 FOR THE PLAINTIFF:

6 MARK BIERBOWER, ESQUIRE
7 BIERBOWER & BIERBOWER
8 1875 EYE STREET, N. W.
9 SUITE 1275
10 WASHINGTON, D. C. 20006

11 FOR THE DEFENDANTS:

12 MELVIN L. WULF, ESQUIRE
13 BELDOCK, LEVINE & HOFFMAN
14 565 FIFTH AVENUE
15 NEW YORK, NEW YORK 10017

16 ALSO PRESENT:

17 LEE S. STRICKLAND, ESQUIRE
18 SPECIAL ASSISTANT, U.S. ATTORNEY
19 U.S. COURTHOUSE
20 THIRD & CONSTITUTION AVENUE, N. W.
21 WASHINGTON, D. C. 20001

22 LAUNIE ZIEBELL, ESQUIRE
ASSOCIATE GENERAL COUNSEL
CHIEF, LITIGATION DIVISION
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D. C. 20505

LOUIS WOLF

1 A I THINK I RECALL THAT HE DID, YES.

2 Q BUT YOU DON'T THINK THAT THAT WAS THE RESULT OF HIS
3 OVERHEARING YOUR CONVERSATION WITH WILSON?

4 A NO, I DON'T THINK SO.

5 Q DID YOU EVER ASK HIM WHAT THE SOURCE OF THAT
6 SPECULATION WAS?

7 A NO, I DID NOT.

8 Q NOT INTERESTED IN THAT?

9 A I DON'T RECALL ASKING HIM.

10 Q MIGHT YOU HAVE ASKED HIM?

11 A I MIGHT HAVE.

12 Q WHERE IS O'LEARY NOW, STILL LIVING IN WASHINGTON?

13 A YES, SIR.

14 Q STILL EMPLOYED AS A NEWSPAPER REPORTER?

15 A YES, SIR.

16 Q HOW OLD A GENTLEMAN IS HE?

17 A ABOUT, I WOULD GUESS, 62, SOMETHING.

18 Q IN GOOD HEALTH?

19 A IN POOR HEALTH.

20 Q WHAT IS THE PROBLEM WITH HIS HEALTH?

21 A HE HAS HAD TWO OR THREE MASSIVE HEART ATTACKS AND
22 BYPASS SURGERY, AND HE HAS HAD SOME REAL HEART PROBLEMS.

1 Q ARE YOU STILL FRIENDS WITH HIM?

2 A I HAVEN'T SEEN HIM IN SOME TIME, BUT I STILL CON-
3 sider him a very good friend.

4 Q WHEN DID YOU SEE HIM LAST?

5 A OCTOBER OF 1982.

6 Q WHAT WAS THE OCCASION?

7 A ANNUAL CONVENTION OF THE ASSOCIATION OF FORMER
8 INTELLIGENCE OFFICERS.

9 Q DID YOU DISCUSS THESE CASES WITH HIM?

10 A NO, I DID NOT.

11 Q HAVE YOU DISCUSSED THE LETELIER ASSASSINATION WITH
12 ANY OTHER MEMBER OF THE PRESS? I DEFINE THAT AS BEING
13 INFINITE IN SCOPE, ELECTRONIC, PRINT, MAGAZINES, WHATEVER.

14 A I HAVE NEVER, IN DEALING WITH ANY MEMBER OF THE
15 PRESS SINCE THIS OCCURRED, INITIATED A CONVERSATION ABOUT THE
16 LETELIER ASSASSINATION. DURING MY CONVERSATIONS WITH NEWS
17 PEOPLE DURING THAT PERIOD, ON MORE THAN ONE INSTANCE I SEEM
18 TO RECALL THAT PEOPLE ASKED ME WHAT I THOUGHT ABOUT IT. THIS
19 WAS DURING A PERIOD WHEN I WAS THE MEDIA SPOKESMAN FOR THE
20 ASSOCIATION OF FORMER INTELLIGENCE OFFICERS AND, CONSEQUENTLY,
21 I SPOKE TO MANY, MANY, MANY NEWSPAPER PEOPLE.

22 Q THAT WAS YOUR PURPOSE, RIGHT, TO BE A SPOKESMAN FOR